

1 STATE OF NEVADA
2 LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
3 RELATIONS BOARD
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5 ESMERALDA COUNTY CLASSROOM
6 TEACHERS ASSOCIATION and MARY
7 JANE ZAKAS,

8 Complainant,

9 vs.

10 ESMERALDA COUNTY SCHOOL
11 DISTRICT, ESMERALDA BOARD OF
12 TRUSTEES and SUPERINTENDENT
CURTIS JORDAN,

Respondents.

ITEM NO. 551A

CASE NO. A1-045764

ORDER

13 For Complainant: Francis C. Flaherty, Esq.
14 Dyer, Lawrence, Penrose, Flaherty & Donaldson

15 For Respondents: Todd Russell, Esq.
16 Allison, MacKenzie, Russell, Pavlakis, Wright & Fagan, Ltd.

17 On May 13, 2003, Complainant ESMERALDA COUNTY CLASSROOM TEACHERS
18 ASSOCIATION and MARY JANE ZAKAS (hereinafter "Association") filed a verified
19 complaint with the LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS
20 BOARD (hereinafter "Board").

21 On June 4, 2003, Respondents ESMERALDA COUNTY SCHOOL DISTRICT,
22 ESMERALDA BOARD OF TRUSTEES and SUPERINTENDENT CURTIS JORDAN
(hereinafter "District") filed an answer and motion to dismiss.

23 The Board issued an order on July 16, 2003, denying the District's motion to dismiss.

24 On September 9, 2003, the District filed a renewal of their motion to dismiss. On
25 September 15, 2003, the Association filed their opposition and the District replied on September
26 18, 2003.

27 The Board deliberated on said motion on September 24, 2003, noticed in accordance with
28 Nevada's Open Meeting Law. Based upon the Board's deliberations,

1 IT IS HEREBY ORDERED that the motion to dismiss is DENIED, without prejudice.

2 IT IS FURTHER ORDERED that the parties file briefs on or before October 20, 2003, on
3 the following issues:

4 1. If it is management's prerogative to eliminate the position of counselor
5 pursuant to NRS 288.150(3), does this Board have any authority to order reinstatement of that
6 position if the underlying reason for the position elimination is a violation of NRS 288.270(1)(f);
7 and

8 2. Does this Board have the authority to order reimbursement of attorneys' fees
9 and costs incurred in the District Court proceeding?

10 DATED this 24th day of September, 2003.

11 LOCAL GOVERNMENT EMPLOYEE-
12 MANAGEMENT RELATIONS BOARD

13 BY: 

14 JANET TROST, ESQ., Chairman

15 BY: 

16 TAMARA E. BARENGO, Vice-Chairman

17 BY: 

18 JOHN E. DICKS, ESQ., Board Member
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